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EXTRAORDINARY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 29th April, 1994:—

I

BILL NO. III OF 1994

A Bill to provide for abolition of begging and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:

1. (1) This Act may be called the Abolition of Begging Act, 1994.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires:—

(a) "appropriate Government" means in the case of a State the Government of that State and in all other cases the Central Government;

(b) "beggar", means a person who indulges in begging;

(c) "Begging", means—

(i) soliciting or receiving alms in a public place, including railways, bus-stops, and public transport, by invoking pity and compassion;

(ii) entering in any private premises for the purpose of soliciting or receiving alms;

Short
title,
and
extent.

Defini-
tions.

(iii) exposing or exhibiting any sore, wound, deformity or disease, whether of self or of any other human being or of an animal or by displaying animals including reptiles without performing any act or charm, for soliciting alms;

(iv) allowing one self to be used as an exhibit for the purpose of soliciting or receiving alms, but does not include soliciting or receiving money or food or gifts or collecting money by performing artists, after giving performance, by way of music, dance acrobatics and painting etc. for a purpose authorised by law, including personal law, customs or usage;

(d) "child" means a boy or a girl who has not attained the age of eighteen years;

(e) "court" means any court exercising jurisdiction in the area in which the person accused of begging has been arrested;

(f) "Destitute Home" means an establishment set up by the appropriate Government to provide shelter and other necessities of life to the destitutes who are too old and infirm to earn their livelihood;

(g) "Receiving Centre" means a centre, established under section 5, where any person arrested on charge of begging shall be sent following his arrest till he is proved to be a begger.

Abolition of begging.

3. Begging by any person in any manner is hereby abolished.

Punishment for abetment of begging.

4. Whoever forces or encourages any person, including a child in his care, custody or charge, for begging or whoever uses any person as an exhibit for the purpose of begging, shall be punished with imprisonment for a term which shall not be less than five years.

Arrest of the person found begging.

5. (1) Any person found begging shall be arrested by the police and before making every such arrest, the officer-in-charge of the concerned police station shall satisfy himself as to the bonafide of the person arrested:

Provided that if a child is found begging, it shall be treated as neglected child and provisions of the Children Act, 1960, or the Juvenile Justice Act, 1986, shall apply in such cases:

60 of 1960.
53 of 1986.

Provided further that the officer-in-charge of the police station concerned shall, in case of arrest of an innocent person, be liable for such action and punishment as may be prescribed by rules made under this Act.

(2) Any person arrested, on the ground of begging shall be sent to a Receiving Centre, to be established in every district by the appropriate Government.

Summary trial of the person accused of begging.

6. (1) Any person accused of begging shall be produced before the Court for summary trial in a manner to be prescribed by rules made under this Act.

(2) If after the trial the court comes to the conclusion that the person accused of begging is a begger, it shall record its finding to that effect.

7. (1) Any person, against whom the court has recorded a finding under sub-section (2) of section 6 shall be sent to the nearest Beggars Welfare Institution to be established in each district by the appropriate Government wherein such person shall be provided with facilities for his rehabilitation including medical facilities.

Establishment of Beggars, Welfare Institutions.

EXPLANATION—For the purpose of this Section “facilities for rehabilitation” means and includes training in agricultural or industrial or other pursuits aiming at gainful employment to beggars.

8. (1) The Central Government shall constitute a Fund to be called the Beggars’ Welfare Fund for the welfare of the beggars.

Establishment of Beggars, Welfare Fund.

(2) Every beggar shall be given such amount, as may be necessary, so as to enable beggars to take up some suitable job for earning their livelihood; for the purposes of self employment.

9. (1) The appropriate Government shall formulate such schemes, work out such plans and create suitable infrastructure in every district so as to enable beggars to take up some suitable job for earning their livelihood.

Formulation of schemes and plans for enabling rehabilitation of beggars and destitutes.

(2) The appropriate Government shall also set up Destitute Homes for providing food, shelter and protection to the old; infirm and hapless persons who are rendered destitute, to ensure that they are not forced to resort to begging.

10. Notwithstanding anything contained in any other law for the time being in force an offence under this Act shall be cognizable and non-bailable.

Offence to be cognizable and non-bailable.

11. The Central Government, may by notification in the official gazette make rules for carrying out the purposes of the Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Despite all efforts made and welfare measures taken by the Central and the State Governments, begging continues unabated all over the country, especially in the metropolitan cities and urban centres. It is not the handicapped, deprived and the destitute who are driven to begging for mere sustenance, but able bodied—persons too take to begging as a regular occupation. There are organised gangs who exploit innocent children and force them into begging not for sustenance of these boys and girls but for gathering alms for the gang leaders and organisers. Quite often these children are maimed before pushing them into beggary.

Drives launched by different State Governments and Union Territory Administrations and anti-begging legislations enacted by various State Legislatures so far have failed to curb and even contain this menace, which has assumed criminal proportions. As per 1971 Census the number of beggars in the country was 10 lakhs. Since beggars, by and large evade census operations, the number should actually be many times more and by now over the period of last 20 years the number should have been risen to several crores.

So far no serious and concerted effort seems to have been made to link prevention, rather abolition, of begging with planned social and welfare programmes. Abolition of begging has to go alongwith programmes for education, training and rehabilitation of the children, women, and men found engaged in begging. To root-out the menace of begging from the country, a national perspective has to be created, by developing an infrastructure to tackle begging not only by a legal framework but socially by creating an environment of accommodation and acceptance of beggars in the society, to assure them a life with dignity.

SUSHILKUMAR SAMBHAJIRAO SHINDE

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for establishment of "Receiving Centres" by the appropriate Government. Clause 7 of the Bill provides for establishment of Beggars' Welfare Institutions by the appropriate Government. It also provides for free medical facilities to the beggars. Clause 8 of the Bill provides for setting up of a Beggars' Welfare Fund. Clause 9 of the Bill provides for formulation of schemes and creating suitable infrastructure in every district. The Central Government would have to incur expenditure from the Consolidated Fund of India for the establishment of Receiving Centres, Beggars' Welfare Institutions and for formulation of schemes and creating suitable infrastructure in respect of Union territories. As far as the establishment of Receiving Centres, Beggars' Welfare Institutions and formulation of schemes and creating suitable infrastructure in the States are concerned the State Governments will incur expenditure from their respective Consolidated Funds. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees four hundred and fifty crores per annum.

Non-recurring expenditure of about rupees two crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

II

BILL NO. V OF 1994

*A Bill to constitute a National Commission for Disaster Management
and for matters connected therewith.*

BE it enacted by Parliament in the Forty-fifth Year of the Republic
of India as follows:—

1. (1) This Act may be called the National Commission for Disaster
Management Act, 1994.

Short title,
extent and
commen-
cement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government
may by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "Commission" means the National Commission for Disaster
Management constituted under section 3.

(b) "disaster" means natural disaster or calamity befalling a
large mass of people, arising from earthquake, cyclonic storm, floods,
rains drought and the like and includes epidemics and mass destruc-
tion caused by fires;

(c) "prescribed" means prescribed by rules made under this Act.

Constitu-
tion of the
National
Commis-
sion for
Disaster
Manage-
ment.

3. (1) The Central Government shall, by notification in the official gazette, establish a National Commission for disaster management.

(2) The Commission shall consist of the following namely:—

(i) The Union Ministers of Agriculture, Environment and Forests, Finance, Health and Family Welfare and Planning and the Union Minister of Agriculture shall be the Chairperson and other Ministers shall be ex-officio members of the Commission;

(ii) The Chief Minister or any other representative as may be prescribed from each State Government and Union Territory Administration;

(iii) Three members of Parliament, two from the Lok Sabha and one from the Rajya Sabha, to be nominated by the Speaker and the Chairman respectively;

(iv) a representative of the Indian Red Cross Society;

(v) a member Secretary to be nominated by the Central Government who shall be a Joint Secretary in the Union Ministry of Agriculture and shall head a cell in the Ministry to provide secretarial assistance to the Commission. ..

Functions
of the
Commis-
sion.

4. (1) The Commission shall perform all or any of the following functions, namely:—

(a) evolve, with the approval of Parliament, a National Policy for Disaster Management;

(b) lay down guidelines and issue instructions for management and control of disaster and its impact, including relief for the victims;

(c) lay down plans and programmes for disaster management;

(d) lay down guidelines for prevention and forecasting of disaster to minimise and contain the damage to human and animal life and property;

(e) create and operate a Fund for financing disaster management programmes and schemes.

(f) monitor implementation of the policy, plan and programmes for disaster management.

(g) any other function relevant and incidental to the aforesaid functions.

(2) The Commission shall have power to regulate its own procedure for efficient discharge of functions specified in sub-section (1)

Power to
make
rules.

5. The Central Government, may; by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Disasters due to earthquakes, cyclones, floods, and nature's fury afflict humanity here and there, more often than not without warning, leaving thousands dead, lakhs homeless, and multitudes gravely hurt. Disasters leave a chain of death, destruction and untold misery which is generally beyond the means of the strongest administration to cope with and provide relief to the victims.

Nature's wrath befalling humanity is becoming more and more frequent. The death and destruction wrought by the earthquakes in Latur-Osmanabad belt, has sent the monstrous quakes of Uttarkashi into oblivion, over-taking over 25,000 people in their sleep, leaving thousands dead and maimed, and turning villages together into maunds of rubble. The generous contributions and spontaneous response of the nation, besides the magnificent response of the world community and the splendid job of the army, was not enough to provide succour to the quake victims. But for the involvement of voluntary organisations and the personal involvement of the national and state leaders the gigantic task could not have been handled to a degree of satisfaction.

The nation is taken unawares when calamities befall masses every now and then. All this speaks volumes about the need to set up a permanent body to cope up with disasters of this kind, in the form of a National Commission for disaster management.

Hence this Bill.

SUSHILKUMAR SAMBHAJIRAO SHINDE.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the matter will relate to details only, the delegation of Legislative power is of a normal character.

III

BILL No. II OF 1994

A Bill further to amend the All-India Services Act, 1951.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the All-India Services (Amendment) Act, 1994.

Short
title
and
commence
ment.

2. After section 2A of the All-India Services Act, 1951 the following sections shall be inserted namely:—

Inser-
tion of
new
sections
2B to 2I
in Act
61 of 1951

“2B Notwithstanding anything contained in any other law for the time being in force, it shall be the special duty and responsibility of every officer of an All-India Service to ensure that every plan,

Special
duty
and

responsi-
bility
of an
officer
towards
plans
or pro-
jects
envisaged
by the
Govern-
ment.

project or development work envisaged either by the Central or the State Government which is under his jurisdiction or charge or administrative control or for the execution or completion or carrying out of which he is responsible in any manner, is executed or completed or carried out efficiently, economically and within the time prescribed for such Plan, project or development work.

Evalu-
ation
of perfor-
mance
of officers
and pre-
paration
of their
annual
perform-
ance re-
port.

2C Notwithstanding anything in this Act or the rules or regulations made thereunder the performance of every officer of an All-India Service shall be evaluated and a performance report thereon prepared by the Central or the State Government, as the case may be, at the end of every calendar year, with particular reference to the execution or carrying out of the specific plans or projects or development works under his jurisdiction or in his charge or administrative control or for the execution or carrying out of which he is responsible in any way.

Annual
resume
of work
of an
officer to
form
part of
the con-
fidential
report.

2D For the purpose of evaluating the performance of an officer of an All-India Service under section 2C, the officer to be reported upon shall submit to the reporting officer, at the end of each calendar year, a brief resume, not exceeding five hundred words, of the work done by him during the year under review, bringing out his special achievements, if any, and the resume so submitted shall form part of the confidential record of the concerned officer.

Manner
in which
perfor-
mance
report is
to be
prepared
and
special
recording
of any
delay
due to
negligence
etc.

2E (1) The reporting officer shall take due note of the resume of the officer to be reported upon while preparing his performance report and shall, after making his own assessment of and comments on the work of the officer, submit the report alongwith the entire record to the next higher officer, namely the reviewing officer who shall add his own comments, if any.

(2) The reporting officer shall make a special mention in the performance report of any delay or set back in the execution or carrying out of the specific plans, projects or development works under the charge or administrative control of the officer due to the negligence or inefficiency of the officer reported upon.

(3) The annual performance reports shall form part of the confidential record of the officer.

Action
against
an
officer.

2F If as a result of annual evaluation of the performance of an officer of an All-India Service it is found that the work under his charge has suffered or has been delayed or its costs have escalated

due to the negligence or inefficiency of the officer, suitable action including dismissal from service shall be taken against such officer after giving him due opportunity to defend himself and prove his innocence in this regard.

guilty of negligence or inefficiency.

2G The annual performance reports shall form the basis while considering an officer of an All-India service for promotion to a higher post or grade.

Annual performance report to be the basis for promotion.

2H. (1) A special evaluation of the performance of every officer of an All-India Service shall be made after the completion of every five years of his service and a special report shall be submitted within three months thereof for the purpose of considering his suitability for retention in the service.

Special evaluation for retention in service.

(2) The annual performance reports for the five years under review shall be taken into consideration for the purposes of sub-section (1).

2I. If an officer of an All-India Service earns an adverse report twice consecutively as a result of special evaluation under Section 2H proceedings may be initiated against such officer for termination of his services."

Termination of service.

STATEMENT OF OBJECTS AND REASONS

Ours is a Welfare State. For the welfare of the masses removal of poverty and attainment of self reliance are the two major tasks before our country. Through the five year plans the country has marched towards progress but poverty is still a major problem. A substantial number of our people are still living below the poverty line. Our planning in fact has failed to make a major impact on poverty. The actual performance of the economy in various five year plans shows a substantial shortfall in the achievement of targets fixed in various sectors of economy. The main reason for shortfall in achieving the targets has been the faulty and leisurely implementation of plans and execution of projects. In majority of cases, the execution of projects and development works and completion of such works, under public undertakings, have taken a much larger period than prescribed time limit. The projects are delayed sometimes deliberately, particularly with the connivance of the contractors, resulting in manifold escalation of costs of the project and causing thereby tremendous national loss.

The officers of All-India Services particularly the officers of the IAS and Indian Engineering Service are, in one way or the other, entrusted with the task of implementation of the plans and projects. No project can be delayed if the officer concerned strictly implements the task with full devotion thereto. Therefore these officers should be made accountable for the results of their work. For this purpose it is necessary that a provision is incorporated in the All-India Services Act, 1951 for the yearly evaluation of performance of every officer of All-India Services in relation to the execution or carrying out of specific plans, projects or development works under his charge and for fixing his responsibility for any delay or set back in the execution of plans or projects or for any mismanagement etc. due to his negligence or inefficiency. Special evaluation should be made after every five year, keeping in view the annual performance reports and if an officer earns an adverse report twice consecutively as a result of such special evaluation his services should be terminated. These provisions will have a desired effect on the concerned officers and would go a long way in accelerating the implementation of plans and achieving a higher rate of growth of our economy.

Hence this Bill

S. S. AHLUWALIA

IV

BILL NO. LXXIV OF 1993

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1993.

Short
title
and com-
mence-
ment.

(2) It shall come into force at once.

2. In article 15 of the Constitution, in clause (4), for the words “any socially and educationally backward classes of” the words “economically and educationally deprived” shall be substituted.

Amend-
ment of
article
15.

3. In article 16 of the Constitution, in clause (4), for the words “any backward class of” the words “any economically and educationally deprived categories of” shall be substituted.

Amend-
ment of
article
16.

4. In article 340 of the Constitution,—

(a) In the marginal heading for the words “backward classes” the words “economically and educationally deprived categories of citizens” shall be substituted.

Amend-
ment of
article
340.

(b) In clause (1) for the words “socially and educationally backward classes” the words “economically and educationally deprived categories of citizens” shall be substituted.

STATEMENTS OF OBJECTS AND REASONS

The founding fathers of the Constitution while granting the right to equality to the citizens of the country have also provided in the Constitution that despite the right to equality there shall be no bar on the jurisdiction of the State to make special provisions for the advancement of socially and educationally backward classes of citizens. Similarly in article 340 the framers of the Constitution have provided for appointment of a Commission to investigate into the conditions of backward classes. These provisions in the Constitution were inevitable as we had opted for a Welfare State and the State had to uplift the socially, economically and educationally deprived citizens of the country. However over the years the nomenclature "backward classes" seems to have lost its sanctity. Moreover, even the persons who are still backward do not like to be called backward as use of that term in respect of them creates a feeling of inferiority complex in them. The nomenclature is detested more by the younger generation who feels humiliated to be identified by the term backward. Similarly, those citizens who make advancement in society by availing of higher education and attaining higher status in life continue to reap the benefits meant for the really backward class of citizens simply because they once belonged to that class.

The stigma of "backwardness" needs to be removed from the Constitution itself. The words "backward classes", used in certain articles of the Constitution therefore, need to be replaced by "economically and educationally deprived category of citizens" to give respectability to those who have been denied the opportunity to advance in society.

This Bill seeks to achieve the above objects.

S. S. AHLUWALIA

V

BILL NO. I OF 1994

A Bill to provide complete freedom to a child for enjoying his childhood through banning admission of a child before five years of age for regular schooling which causes depression & other ailments, for reducing workload of children who are above five years of age but below the age of fifteen years, for attending school for education by prohibiting assignment of home task to such children to enable them to play and enjoy and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

- | | |
|---|--|
| <p>1. (1) This Act may be called the Freedom of Childhood Act, 1994.</p> <p>(2) It extends to the whole of India.</p> <p>(3) It shall come into force with immediate effect.</p> | <p>Short
title,
extent
and
com-
mence-
ment.</p> |
| <p>2. In this Act, unless the context otherwise requires,—</p> <p>(a) “appropriate Government” means in the case of a State the Government of that State and in all other cases the Central Government;</p> <p>(b) “child” means a boy or girl who is below the age of fifteen years;</p> | <p>Defini-
tions.</p> |

(c) "educational institution" includes any school whether nursery, KG, primary, middle, secondary or senior secondary level, imparting education to child by whatever name such institution is called;

(d) "parent" in relation to any child includes a guardian and every person who has the actual custody of the child;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "toddler" means a boy or girl who is below the age of six-years.

Prohibition of regular schooling for a toddler.

3. No educational institution shall admit a toddler for regular schooling such as reading, writing or cramming.

Home task not to be given to a child.

4. No child who is attending an educational institution for studies shall be given any home task by such institution so as to enable the child to play and enjoy his childhood after school hours.

Parents to allow the child to play for reasonable period of time.

5. It shall be the duty of every parent of a child to allow it to play and enjoy for a reasonable period of time during the day.

Prohibition of employment of children.

6. No person shall employ a child as domestic servant or in any establishment in any manner whatsoever which may deny him the enjoyment of the childhood.

Periodic medical examination of the child.

7. The appropriate Government shall conduct a periodic medical examination of every child studying in any educational institution, falling under the jurisdiction of that Government from time to time and take such remedial measures as are recommended by the Medical authorities.

Survey to be conducted in respect of children.

8. The appropriate Government shall conduct a survey from time to time in respect of the freedom available to children and prepare a report thereon and shall cause such report to be laid before the respective Legislatures.

Admission to be through draw of lots.

9. Notwithstanding anything contained in any other law for the time being in force all the admissions in a school at the entry stage of formal education shall be on the basis of draw of lots to be held in the presence of parents.

Penalties.

10. (1) Whoever contravenes the provisions of sections 3 or 4 shall be punishable with imprisonment for a term which may extend to six months or with a fine which may extend to five thousand rupees or with both;

(2) Whoever contravenes the provisions of section 6 shall be punishable with imprisonment for a term which may extend to seven years or with a fine which may extend to fifteen thousand rupees or with both.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make
rules.

STATEMENT OF OBJECTS AND REASONS

Recently it was widely reported in the national print media that the medical community is deeply concerned about the trauma of the pre-school children particularly in the age group of 3 to 6 years. It was stated that there was an increase in the incidence of recurring respiratory infections, fever, pains and temper tantrums among the pre-schoolers which could be related directly or indirectly to early schooling. It is a well known fact that now-a-days children are being sent to school at the tender age of two years in schools known as Nursery, KG etc. These schools publish big advertisements in prominent newspapers for registration of children and charge heavy registration fee. In some cases registrations can be made few days after the birth of the child. Thereafter, the present system of admission causes a lot of tension and trauma in children if they face rejection at the entry stage and instils a sense of loss in their minds.

It is a sorry state of affairs that toddlers who should play and enjoy their childhood are forced to attend regular schools at a very tender age. Instead of enjoying their childhood by playing and running after the butterflies, making mischief, they are forced to read, writing and cram and do the home task assigned to them by their teachers. Children have forgotten to play and enjoy. This sorry state of affairs is causing havoc to children. According to some paediatricians the introduction of early formal education can lead to adverse consequences not only in terms of intelligence but also in motivational and socio-economic development. They have observed that there is an increasing incidence of stress-related medical problems in children due to hazards of early formal schooling. Moreover at tender age the childrens' muscles are still in the process of development at their muscles co-ordination particularly of wrist and fingers need strength. As a result children do not even have the capacity to hold and use a pencil in a well-co-ordinated way.

In these circumstances it is necessary that admission to schools for children below six years of age should be stopped and children below the age of fifteen years should not be given home task. They should get reasonable time to play and enjoy childhood. All admissions at the entry point of school should be on the basis of draw of lots drawn before the parents. No child should be employed by any one and medical examination should be conducted for children from time to time. They must get time and opportunity to enjoy the childhood without worries.

Hence this Bill.

S. S. AHLUWALIA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Cause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VI

BILL No. XVIII OF 1994

A Bill further to amend the Railway Protection Force Act, 1957.

BE it enacted by Parliament in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Railway Protection Force (Amendment) Act, 1994.

Short
title
and com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

22-32 1957.

2. In the Railway Protection Force Act, 1957, (hereinafter referred to as the principal Act), for the long title the following long title shall be substituted, namely:—

Substitu-
tion of
new long
title for
long
title.

“An Act to provide for the constitution and regulation of a force called the Railway Protection Force for the better protection and security of railway property and for investigation of offences against railway property and for matters connected therewith.”

3. In section 2 of the principal Act, in sub-section (1)—

Amend-
ment of
section
2.

(i) Clauses (ba) and (bb) shall be omitted:

(ii) in clause (c), after the words “a person” the words “other than a superior officer” shall be inserted:

(iii) clause (ea) shall be omitted; and

(iv) clause (fa) shall be omitted.

Amend-
ment of
section
3.

4. In section 3 of the principal Act,—

(i) in sub-section (1) for the words “an armed force of the Union” the words “a force” shall be substituted;

(ii) in sub-section (2) for the words “superior officers, subordinate officers under officers and other enrolled members”, the words “superior officers and members” shall be substituted.

Amend-
ment of
section
4.

5. In section 4 of the principal Act, for sub-section(1), the following sub-section shall be substituted, namely:—

“(1) The Central Government may appoint a person to be the Director-General of the Force and may appoint other persons to be Inspectors General, Additional Inspectors-General, Deputy Inspectors General-cum-Chief Security Officer, Deputy Chief Security Officers, Security Officers and Assistant Security Officers of the Force.”

Insertion
of new
section
5.

6. After section 4 of the principal Act, the following section shall be inserted, namely:—

Officers
and ranks
in the
force.

“5. There shall be the following classes of officers and other ranks among the members of the Force, who shall take rank in the order mentioned namely:—

A. Classes of Officers—

- (i) Inspector,
- (ii) Sub-Inspector,
- (iii) Assistant Sub-Inspector.

B. Classes of other ranks—

- (i) Head Constable,
- (ii) Naik,
- (iii) Constable.”.

Amend-
ment of
section
6.

7. In section 6 of the principal Act, for the words “enrolled members”, the words “members” shall be substituted.

Substitu-
tion of
new
section
for
section 8.

8. For section 8 of the principal Act, the following section shall be substituted, namely:—

Super-
inten-
dence and
adminis-
tration
of the
force.

“8. (1) The Superintendence of the Force shall vest in the Central Government and subject thereto the administration of the force shall vest in the Director-General and shall be carried on by him in accordance with provisions of this Act and of any rules made thereunder.

(2) Subject to the provisions of sub-section (1) the administration of the Force within such local limits in relation to a railway as may be prescribed shall be carried on by the Chief Security Officer in accordance with the provisions of this Act and of any rules made thereunder, and he shall discharge his functions under the general supervisions of the Director General:

Provided that so far as the duties of protection and safeguarding the railway property are concerned, the Chief Security Officer shall discharge his functions under the general supervision of the General Manager of the Railway."

9. In section 9 of the principal Act, for the words, "enrolled member", wherever they occur, the word "member" shall be substituted.

Amendment of section 9.

10. After section 12 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 12A and 12B.

"12A. When any person is arrested in accordance with clause (ii) or (iii) of section 12, the officer of the Force shall proceed to inquire into the charge against such person and for this purpose an officer of the Force may exercise the same powers and shall be subject to the same provisions as he may exercise and is subject to under the Railway Property (Unlawful Possession) Act, 1966, when inquiring into a case and/or the officer-incharge of a Police Station may exercise and is subject to under the Code of Criminal Procedure, 1973, when investigating into a cognizable offence.

12B. Any superior officer or member of the Force making an arrest under clause (i) or (iv) of section 12 shall without unnecessary delay, hand over the person so arrested to a police officer, or in the absence of a police officer, take such person or cause him to be taken to the nearest police station."

11. Section 14 of the principal Act shall be omitted.

Omission of section 14.

12. For section 15 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 15.

29 of
1966.

2 of
1974.

Officers
and mem-
bers of
the
Force
to be
con-
sidered
always
on duty
and
liable
to be
employed
in any
part of the
Railways.

"15 (1) Every superior officer and member of the force shall, for the purpose of this Act, be considered to be always on duty, and shall at any time, be liable to be employed in any part of the rail-ways throughout India.

(2) No superior officer or member of the force shall engage himself in any employment or office other than his duties under this Act".

Substitu-
tion of
new
section for
section
15A.

13. For section 15A of the principal Act the following section shall be substituted, namely:—

Right to
form
service
associa-
tions.

"15A. (1) No superior officer or member of the Force shall en-rol himself as a member of, or work for or make any contribution directly or indirectly, to any trade union.

(2) A superior officer of the Force may, however, be a member of an association composed entirely of members of the service to which he belongs or of Gazetted Officers of Railway services of the same class whereas a member of the Force, may be a member of an association composed of members of the service to which he belongs or an association composed entirely of members of the Force.

(3) Any such association as is mentioned in sub-section (2) shall not, however, be an association that may affiliate itself to any union or other association whatsoever.

Recogni-
tion of
associa-
tions.

15B. The Central Government may, from time to time, specify the authority competent to recognise associations, the condi-tions for their recognition and the privileges of such recognised associations and also provide for withdrawal of such recognition".

Omission
of sec-
tion 16A

14. Section 16A of the principal Act shall be omitted.

Substitu-
tion of
new
section
for
section
17.

15. For section 17 of the principal Act, the following section shall be substituted, namely:—

"17A. (1) Without prejudice to the provisions contained in section 9, every member of the Force who shall be guilty of any violation of duty or wilful breach or neglect of any Rule or Regulation or lawful order made by a superior officer, or who shall withdraw from the duties of his office without permission, or who being absent on leave, fails without reasonable cause, to report himself for duty on the expiration of the leave, or who engages himself without authority in any employment other than his duty as a member of the Force, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to imprisonment for a period not exceeding six months.

Penalties for neglect of duty etc.

2 of 1974.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this section shall be cognizable".

16. For section 19 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 19.

4 of 1936.

"19. Nothing contained in the Payment of Wages Act, 1936, or

14 of 1947.

the Industrial Disputes Act, 1947 or the Factories Act, 1948, shall

63 of 1948.

apply to members of the force".

Certain Acts not to apply to members of the Force.

17. In section 21 of the principal Act, for sub-section (2) the following sub-section shall be substituted, namely:—

Amendment of section 21.

"(2) in particular and without prejudice to the generality of the foregoing powers, such rules may provide for—

(a) regulating the classes and grades and the pay and remuneration of superior officers and members of the Force and their conditions of service in the Force;

(b) regulating the powers and duties of superior officers and members of the force authorised to exercise any functions by or under this Act;

(c) fixing the period of service for superior officers and members of the Force;

(d) regulating the punishments and providing for appeals from or the revision of, order of punishment, or the remission of fines or other punishments;

(e) any other matter which may be prescribed".

STATEMENT OF OBJECTS AND REASONS

Crime on the railways, concerning railway property and property of the train passengers has increased manifold. There are two agencies to combat crime on the railways—(i) the Railway Protection Force, and (ii) the Government Railway Police. The Railway Protection Force is charged solely with the protection of railway property and the Government Railway Police is charged with the maintenance of law and order and to deal with other crimes on the railways. Reports of several Committees appointed by the Government of India to suggest better security and policing reveal that crime on the railways and with the railway property could not be arrested because the Railway Protection Force lacks legal powers of investigation and they depend upon the Government Railway Police, who are vested with all police powers. The Government Railway Police is not able to combat crime against railway property because of its engagement in maintenance of law and order and the crimes with the property of the railway users.

The Railway Protection Force Act, 1957, was amended in 1985 and the amendments made by the amending Act were not as per the spirit of recommendations of various Committees appointed from time to time to suggest ways and means for the better functioning of the Railway Protection Force. The Railway Protection Force was not given any legal powers of investigation and prosecution to deal effectively with various forms of crimes relating to railway property.

The Railway Protection Force Act, 1957 was amended in 1985 only as a pretext to abrogate the fundamental right to form and continue association of the permanent Railway Protection Force personnel and shut their genuine aspirations. After amending the Railway Protection Force Act in 1985, the RPF Associations which enjoyed continuous recognition for 14 years were banned and thereafter the avenues of promotion of the permanent RPF men were taken away by the deputationist IPS officers.

The RPF men are civil servants/Railway employees for all purposes as per sections 9 and 10 of the Railway Protection Force Act and within the meaning of Article 311 of the Constitution of India. So they can only be governed by a set of discipline and appeal rules applicable to other civil servants. Since the RPF men are neither charged with the maintenance of public order nor with the security of the border of the country, they cannot be equated with the members of Army, BSF, CRPF, ITBP, etc., which are under the control of Ministry of Defence or the Ministry of Home Affairs. So the RPF men can neither be governed under the Discipline & Appeal Rules applicable to other Armed Forces nor they can be deprived of their fundamental right to form service associations.

The Bill seeks to do away with the lacunae in the Railway Protection Force Act, 1957, which were created consequent on the amendment of the

Act in 1985 and to make the Railway Protection Force, a more conductive Force for the better protection of railway property. The Government assured on the floor of the Lok Sabha that the principal RPF Act would be amended and recognition to the RPF Associations would be restored.

CHANDRA KALA PANDEY

V. S. RAMA DEVI,
Secretary-General.

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